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09/688,694	10/17/2000	Christopher R Lefebvre	47004.000062	2049

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EXAMINER

YOUNG, JOHN L

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/688,694

Applicant(s)

LEFEBVRE ET AL.

Examiner

John L. Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 September 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-38 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 19-38 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

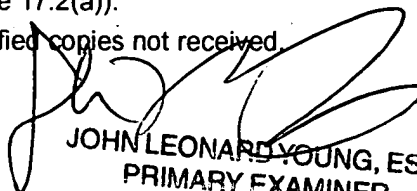
**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

  
JOHN LEONARD YOUNG, ESQ.  
PRIMARY EXAMINER

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

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## **NON-FINAL REJECTION**

**(Paper#12/08/2004)**

### **DRAWINGS**

1. This application has been filed with drawings that are considered informal; however, said drawings are acceptable for examination and publication purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

### **CLAIM REJECTIONS — 35 U.S.C. §101**

35 U.S.C. §101 reads as follows:

Whoever invents or discovers any new and useful  
process, machine, manufacture, or composition of matter or  
any new and useful improvement thereof, may obtain a  
patent therefore, subject to the conditions and requirements  
of this title.

2. Claims 19-25 & 27-28 is rejected under 35 U.S.C. 101, because said claims are directed to non-statutory subject matter.

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As per claims 19-25 & 27-28, as drafted said claims are not limited by language within the technological arts (see *In re Waldbaum*, 173 USPQ 430 (CCPA 1972); *In re Musgrave*, 167 USPQ 280 (CCPA 1970) and *In re Johnston*, 183 USPQ 172 (CCPA 1974) also see MPEP 2106 IV 2(b), even though said claims are limited by language to a useful, concrete and tangible application (See *State Street v. Signature financial Group*, 149 F.3d at 1374-75 , 47 USPQ 2d at 1602 (Fed Cir. 1998) ; *AT&T Corp. v. Excel*, 50 USPQ 2d 1447, 1452 (Fed. Cir. 1999).

Note: it is well settled in the law that "[although] a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into the claims. See *In re Prater*, 415, F.2d 1393, 162 USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637, 188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the specification to impart limitations to the claims that are not recited in the claims." (See MPEP 2173.05( q )).

#### **CLAIM REJECTION — 35 U.S.C. §103( a )**

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 19-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Deaton US 5,644,723; class 705/14, (Jul. 1, 1997) (herein referred to as ("Deaton").

As per claim 1, Deaton (col. 3, ll. 52-55) discloses: "*Marketing by retail stores has previously been confined to advertising to large segments of the population. . . .*"

Deaton (col. 66, ll. 1-6) discloses: "*grouping or subgrouping of customers is available for marketing efforts.*" The Examiner interprets these disclosures as showing "identifying the customer as a customer segment, where the customer segment identifies the customer's past behavior."

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Deaton (the ABSTRACT; col. 4, ll. 32-60; and col. 7, ll. 10-31) shows: A computer implemented method for providing one or more tailored incentives to a customer. . . .”

Deaton (col. 4, ll. 60-67) discloses: “*The system includes one or more transaction terminals, coupled to a transaction processor that stores the customer database. A transaction terminal is used to transmit a customer information request (such as for check or credit card transaction verification), which includes an automatically read customer’s identification number, from the point-of-sale (POS) to the transaction processor.*” The Examiner interprets this disclosure as inherently showing “A computer implemented method . . . in response to a customer request . . . receiving a request from a customer. . . .” because the disclosed “*customer information request*” is represented as being in response to a customer’s “*check or credit card transaction verification. . . .*” which is related to the customer’s implicit request to make a purchase!

Deaton (col. 4, ll. 60-67) as well as Deaton (the ABSTRACT; col. 4, ll. 32-60; and col. 7, ll. 10-31; and FIG. 2A, el. 121) shows: “retrieving account data associated with the customer in response to the request where the account data is displayed on a graphical user interface. . . .”

Deaton (col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) implicitly shows: “identifying one or more incentives based on the request type, the

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customer segment and one or more profitability factors associated with a provider of the one or more incentives; and offering the customer at least one of the identified one or more incentives for retaining the customer in response to the request.”

Deaton lacks an explicit recital of: “identifying one or more incentives based on the request type, the customer segment and one or more profitability factors associated with a provider of the one or more incentives; and offering the customer at least one of the identified one or more incentives for retaining the customer in response to the request. . . .” even though Deaton (col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) implicitly shows same.

It would have been obvious to one of ordinary skill in the art at the time of the invention that the above cited disclosure of Deaton (col. 69, ll. 40-67; and col. 70-10) implicitly shows “identifying one or more incentives based on the request type, the customer segment and one or more profitability factors associated with a provider of the one or more incentives; and offering the customer at least one of the identified one or more incentives for retaining the customer in response to the request. . . .” and it would have been obvious to modify and interpret the disclosure of Deaton cited above as implicitly showing “identifying one or more incentives based on the request type, the customer segment and one or more profitability factors associated with a provider of the one or more incentives; and

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offering the customer at least one of the identified one or more incentives for retaining the customer in response to the request. . . .”, because modification and interpretation of the cited disclosure of Deaton would have provided means for *“reducing the requirements for customer identification, to enable a store to adopt a risk management approach to credit verification based on a customer’s transactional history (frequency and dollar volume over specified intervals) . . . by collecting transactional data . . . both current and historical. . . .”* (see Deaton (col. 4, ll. 33-45), based on the motivation to modify Deaton so as to *“develop customer profiles and to perform targeted marketing.”* (See Deaton (col. 4, ll. 33-45).

As per claim 20, Deaton shows the method of claim 19.

Deaton (col. 3, ll. 23-37) discloses: *“information regarding checks returned to a store by its bank is entered into a computer. . . . This PC stores information on that check . . . reason for the return of the check. . . . data on returned checks may be entered into a multiple tasking computer environment in which the same processor simultaneously manages the operations of returned check entry and point-of-sale keypad operation.”*

Deaton (col. 4, ll. 60-67) discloses: *“The system includes one or more transaction terminals, coupled to a transaction processor that stores the customer*



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*database. A transaction terminal is used to transmit a customer information request (such as for check or credit card transaction verification), which includes an automatically read customer's identification number, from the point-of-sale (POS) to the transaction processor."* The Examiner interprets these disclosure as inherently showing "A computer implemented method . . . in response to a customer request . . . receiving a request from a customer. . . ." because the disclosed "*customer information request*" is represented as being in response to a customer's "*check or credit card transaction verification. . . .*" which is related to the customer's implicit request to make a purchase, cancel a purchase or return an item!

Deaton lacks an explicit recital of: "wherein the request is a request to terminate a relationship with the provider."

It would have been obvious to one of ordinary skill in the art at the time of the invention that the above cited disclosure of Deaton (col. 4, ll. 60-67; and col. 3, ll. 23-37) implicitly shows "wherein the request is a request to terminate a relationship with the provider. . . ." and it would have been obvious to modify and interpret the disclosure of Deaton cited above as implicitly showing "wherein the request is a request to terminate a relationship with the provider. . . .", because modification and interpretation of the cited disclosure of Deaton would have provided means for "*reducing the requirements for customer identification, to*

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*enable a store to adopt a risk management approach to credit verification based on a customer's transactional history (frequency and dollar volume over specified intervals) . . . by collecting transactional data . . . both current and historical. . . .*" (see Deaton (col. 4, ll. 33-45), based on the motivation to modify Deaton so as to *"develop customer profiles and to perform targeted marketing."* (See Deaton (col. 4, ll. 33-45).

As per claim 21, Deaton shows the method of claim 19.

Deaton lacks an explicit recital of: "wherein the one or more incentives comprises a product offered by a financial institution."

Official Notice is taken that both the concepts and the advantages of "wherein the one or more incentives comprises a product offered by a financial institution. . . ." were notoriously well known and expected in the art at the time of the invention because it would have been obvious to modify and interpret the disclosure of Deaton (the ABSTRACT; col. 3, ll. 52-55; col. 4, ll. 32-60; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) as implicitly showing "wherein the one or more incentives comprises a product offered by a financial institution. . . ." because modification and interpretation of the cited disclosure of Deaton would have provided means for *"reducing the requirements for customer identification, to enable a store to adopt a risk*

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*management approach to credit verification based on a customer's transactional history (frequency and dollar volume over specified intervals) . . . by collecting transactional data . . . both current and historical. . . .*" (see Deaton (col. 4, ll. 33-45), based on the motivation to modify Deaton so as to "develop customer profiles and to perform targeted marketing." (See Deaton (col. 4, ll. 33-45).

As per claim 21, Deaton shows the method of claim 19.

Deaton (col. 4, ll. 33-45) discloses: "*reducing the requirements for customer identification, to enable a store to adopt a risk management approach to credit verification based on a customer's transactional history (frequency and dollar volume over specified intervals) . . . by collecting transactional data . . . both current and historical. . . .*"

Deaton lacks an explicit recital of: "wherein the step of identifying the customer as a customer segment, further comprises the step of: assigning a value to the customer based on at least one of customer payment history, customer payment habit, customer behavior data and credit bureau score."

It would have been obvious to one of ordinary skill in the art at the time of the invention that the above cited disclosure of Deaton (col. 4, ll. 33-45) implicitly shows "wherein the step of identifying the customer as a customer segment, further comprises the step of: assigning a value to the customer based on at least

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one of customer payment history, customer payment habit, customer behavior data and credit bureau score. . . .” and it would have been obvious to modify and interpret the disclosure of Deaton cited above as implicitly showing “wherein the step of identifying the customer as a customer segment, further comprises the step of: assigning a value to the customer based on at least one of customer payment history, customer payment habit, customer behavior data and credit bureau score. . . .”, because modification and interpretation of the cited disclosure of Deaton would have provided means for *“reducing the requirements for customer identification, to enable a store to adopt a risk management approach to credit verification based on a customer’s transactional history (frequency and dollar volume over specified intervals) . . . by collecting transactional data . . . both current and historical. . . .”* (see Deaton (col. 4, ll. 33-45), based on the motivation to modify Deaton so as to *“develop customer profiles and to perform targeted marketing.”* (See Deaton (col. 4, ll. 33-45).

As per claim 23, Deaton shows the method of claim 19.

Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) implicitly shows: “wherein the step of identifying the customer as a customer segment, further comprises the step of: considering information

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related to at least one of customer delinquency data and customer attrition data.”

Deaton lacks an explicit recital of: “wherein the step of identifying the customer as a customer segment, further comprises the step of: considering information related to at least one of customer delinquency data and customer attrition data. . . .” even though Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) implicitly shows same.

It would have been obvious to one of ordinary skill in the art at the time of the invention that the above cited disclosure of Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) implicitly shows “wherein the step of identifying the customer as a customer segment, further comprises the step of: considering information related to at least one of customer delinquency data and customer attrition data. . . .” and it would have been obvious to modify and interpret the disclosure of Deaton cited above as implicitly showing “wherein the step of identifying the customer as a customer segment, further comprises the step of: considering information related to at least one of customer delinquency data and customer attrition data. . . .”, because modification and interpretation of the cited disclosure of Deaton would have provided means for “*reducing the requirements for customer identification, to enable a store to*

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*adopt a risk management approach to credit verification based on a customer's transactional history (frequency and dollar volume over specified intervals) . . . by collecting transactional data . . . both current and historical. . . .”* (see Deaton (col. 4, ll. 33-45), based on the motivation to modify Deaton so as to “develop customer profiles and to perform targeted marketing.” (See Deaton (col. 4, ll. 33-45).

As per claim 24, Deaton shows the method of claim 19.

Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) implicitly shows: “offering the customer another one of the identified one or more incentives for retaining the customer in response to the request.”

Deaton lacks an explicit recital of: “offering the customer another one of the identified one or more incentives for retaining the customer in response to the request. . . .” even though Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) implicitly shows same.

It would have been obvious to one of ordinary skill in the art at the time of the invention that the above cited disclosure of Deaton (col. 3, ll. 52-55; col. 66,

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ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) implicitly shows “offering the customer another one of the identified one or more incentives for retaining the customer in response to the request. . . .” and it would have been obvious to modify and interpret the disclosure of Deaton cited above as implicitly showing “wherein the step of identifying the customer as a customer segment, further comprises the step of: considering information related to at least one of customer delinquency data and customer attrition data. . . .”, because modification and interpretation of the cited disclosure of Deaton would have provided means for “*reducing the requirements for customer identification, to enable a store to adopt a risk management approach to credit verification based on a customer’s transactional history (frequency and dollar volume over specified intervals) . . . by collecting transactional data . . . both current and historical. . . .*” (see Deaton (col. 4, ll. 33-45), based on the motivation to modify Deaton so as to “*develop customer profiles and to perform targeted marketing.*” (See Deaton (col. 4, ll. 33-45).

As per claim 25, Deaton shows the method of claim 19.

Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and

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col. 110, ll. 15-50) implicitly shows: “applying one or more restrictions on the one or more incentives based on the one or more profitability factors.”

Deaton lacks an explicit recital of: “applying one or more restrictions on the one or more incentives based on the one or more profitability factors. . . .” even though Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) implicitly shows same.

It would have been obvious to one of ordinary skill in the art at the time of the invention that the above cited disclosure of Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) implicitly shows “applying one or more restrictions on the one or more incentives based on the one or more profitability factors. . . .” and it would have been obvious to modify and interpret the disclosure of Deaton cited above as implicitly showing “applying one or more restrictions on the one or more incentives based on the one or more profitability factors. . . .”, because modification and interpretation of the cited disclosure of Deaton would have provided means for *“reducing the requirements for customer identification, to enable a store to adopt a risk management approach to credit verification based on a customer’s transactional history (frequency and dollar volume over specified intervals) . . . by collecting*



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*transactional data . . . both current and historical. . .*” (see Deaton (col. 4, ll. 33-45), based on the motivation to modify Deaton so as to “*develop customer profiles and to perform targeted marketing.*” (See Deaton (col. 4, ll. 33-45).

As per claim 25, Deaton shows the method of claim 19.

Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) implicitly shows: “applying one or more restrictions on the one or more incentives based on the one or more profitability factors.”

Deaton lacks an explicit recital of: “applying one or more restrictions on the one or more incentives based on the one or more profitability factors. . . .” even though Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) implicitly shows same.

It would have been obvious to one of ordinary skill in the art at the time of the invention that the above cited disclosure of Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50) implicitly shows “applying one or more restrictions on the one or more incentives based on the one or more profitability factors. . . .” and it would have been obvious to modify and

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interpret the disclosure of Deaton cited above as implicitly showing “applying one or more restrictions on the one or more incentives based on the one or more profitability factors. . . .”, because modification and interpretation of the cited disclosure of Deaton would have provided means for *“reducing the requirements for customer identification, to enable a store to adopt a risk management approach to credit verification based on a customer’s transactional history (frequency and dollar volume over specified intervals) . . . by collecting transactional data . . . both current and historical. . . .”* (see Deaton (col. 4, ll. 33-45), based on the motivation to modify Deaton so as to *“develop customer profiles and to perform targeted marketing.”* (See Deaton (col. 4, ll. 33-45).

As per claim 26, Deaton shows the method of claim 19.

Deaton lacks an explicit recital of: “wherein the request comprises one or more of a telephone call and Internet communication.”

Official Notice is taken that both the concepts and the advantages of “wherein the request comprises one or more of a telephone call and Internet communication. . . .” were notoriously well known and expected in the art at the time of the invention because it would have been obvious to modify and interpret the disclosure of Deaton (the ABSTRACT; col. 3, ll. 52-55; col. 4, ll. 32-60; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50)

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as implicitly showing “wherein the request comprises one or more of a telephone call and Internet communication. . . .” because modification and interpretation of the cited disclosure of Deaton would have provided means for *“reducing the requirements for customer identification, to enable a store to adopt a risk management approach to credit verification based on a customer’s transactional history (frequency and dollar volume over specified intervals) . . . by collecting transactional data . . . both current and historical. . . .”* (see Deaton (col. 4, ll. 33-45), based on the motivation to modify Deaton so as to *“develop customer profiles and to perform targeted marketing.”* (See Deaton (col. 4, ll. 33-45).

As per claim 27, Deaton shows the method of claim 19.

Deaton lacks an explicit recital of: “wherein the one or more profitability factors comprise one or more of customer payment delinquency and customer ability to pay.”

Official Notice is taken that both the concepts and the advantages of “wherein the one or more profitability factors comprise one or more of customer payment delinquency and customer ability to pay. . . .” were notoriously well known and expected in the art at the time of the invention because it would have been obvious to modify and interpret the disclosure of Deaton (the ABSTRACT; col. 3, ll. 52-55; col. 4, ll. 32-60; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-

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67; col. 70-10; and col. 110, ll. 15-50) as implicitly showing “wherein the one or more profitability factors comprise one or more of customer payment delinquency and customer ability to pay. . . .” because modification and interpretation of the cited disclosure of Deaton would have provided means for *“reducing the requirements for customer identification, to enable a store to adopt a risk management approach to credit verification based on a customer’s transactional history (frequency and dollar volume over specified intervals) . . . by collecting transactional data . . . both current and historical. . . .”* (see Deaton (col. 4, ll. 33-45), based on the motivation to modify Deaton so as to *“develop customer profiles and to perform targeted marketing.”* (See Deaton (col. 4, ll. 33-45).

As per claim 28, Deaton shows the method of claim 19.

Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50; and whole document) implicitly shows: “wherein the step of identifying the request further comprising the step of: identifying a product associated with the customer, wherein the one or more incentives comprises an adjustment to the product.”

Deaton lacks an explicit recital of: “wherein the step of identifying the request further comprising the step of: identifying a product associated with the

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customer, wherein the one or more incentives comprises an adjustment to the product. . . .” even though Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50; and whole document) implicitly shows same.

It would have been obvious to one of ordinary skill in the art at the time of the invention that the above cited disclosure of Deaton (col. 3, ll. 52-55; col. 66, ll. 1-6; the ABSTRACT; col. 4, ll. 32-60; col. 7, ll. 10-31; col. 4, ll. 60-67; col. 7, ll. 10-31; col. 69, ll. 40-67; col. 70-10; and col. 110, ll. 15-50; and whole document) implicitly shows “wherein the step of identifying the request further comprising the step of: identifying a product associated with the customer, wherein the one or more incentives comprises an adjustment to the product. . . .” and it would have been obvious to modify and interpret the disclosure of Deaton cited above as implicitly showing “wherein the step of identifying the request further comprising the step of: identifying a product associated with the customer, wherein the one or more incentives comprises an adjustment to the product. . . .”, because modification and interpretation of the cited disclosure of Deaton would have provided means for *“reducing the requirements for customer identification, to enable a store to adopt a risk management approach to credit verification based on a customer’s transactional history (frequency and dollar volume over*

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*specified intervals) . . . by collecting transactional data . . . both current and historical. . . .” (see Deaton (col. 4, ll. 33-45), based on the motivation to modify Deaton so as to “develop customer profiles and to perform targeted marketing.” (See Deaton (col. 4, ll. 33-45).*

Independent claim 29 is rejected for substantially the same reasons as independent claim 19.

Dependent claim 30 is rejected for substantially the same reasons as dependent claim 20.

Dependent claim 31 is rejected for substantially the same reasons as dependent claim 21.

Dependent claim 32 is rejected for substantially the same reasons as dependent claim 22.

Dependent claim 33 is rejected for substantially the same reasons as dependent claim 23.

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Dependent claim 34 is rejected for substantially the same reasons as dependent claim 24.

Dependent claim 35 is rejected for substantially the same reasons as dependent claim 25.

Dependent claim 36 is rejected for substantially the same reasons as dependent claim 26.

Dependent claim 37 is rejected for substantially the same reasons as dependent claim 27.

Dependent claim 38 is rejected for substantially the same reasons as dependent claim 28.

#### **RESPONSE TO ARGUMENTS**

4. Applicant's arguments (Amendment paper filed 09/ 24/2004) concerning the rejections in the prior Office Action have been considered but are not persuasive for the following reasons: Applicant's arguments are moot based on new grounds of rejection herein presented by the Examiner.

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### **CONCLUSION**

5. Any response to this action should be mailed to:

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

Any response to this action may be sent via facsimile to either:

(703) 746-7239 or (703) 872-9314 (for formal communications EXPEDITED PROCEDURE) or

(703) 746-7239 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh floor Receptionist

Crystal Park V

2451 Crystal Drive

Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

John L. Young

Primary Patent Examiner

JOHN LEONARD YOUNG, ESQ.  
PRIMARY EXAMINER

December 8, 2004